

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

CEMENT MASONS LOCAL 527, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 4:05CV2317 RWS
	)	
JAMES AUBUCHON, an individual, d/b/a	)	
ST. LOUIS CONCRETE,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

Plaintiffs filed this action to recover from defendant liquidated damages owed to the plaintiffs pursuant to the Labor Management Relations Act, 29 U.S.C. §185 ("LMRA") and the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. §1132. Defendant has not appeared, and plaintiffs have moved for default judgment, submitting in support of their motion the affidavits of Kurt E. Dierkes and Greg A. Campbell.

Defendant has been party to collective bargaining agreements with Cement Masons Local 527 which require contributions to the Pension, Welfare and Vacation Funds, and which also require the payment of ten percent (10%) liquidated damages on contributions which are not paid when due. Defendant submitted its contributions in an untimely fashion for the months of January, February, March, April, May, June, July, September, October, November and December 2004 and January, February, March, April, June, July, August, September and October 2005. As a result of these untimely contributions, defendant owes liquidated damages of \$2,865.65 to the Pension Fund, \$2,360.78 to the Welfare (Trust) Fund, and \$698.49 to the Vacation Fund, for a total of \$5,924.92.

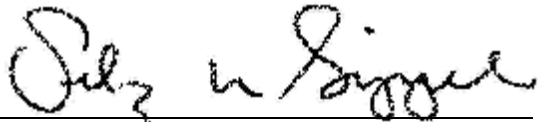
The collective bargaining agreement and ERISA, 29 U.S.C. §1132(g)(2), also require defendant to pay plaintiffs' attorneys' fees and costs. Plaintiffs incurred \$437.50 in attorneys' fees and \$405.55 in costs. Based on the evidence presented, the Court finds that the services performed by plaintiffs' attorneys were reasonable and necessary to the litigation of this case, that the rates charged were reasonable, and that the amount sought for attorneys' fees is reasonable. The total amount owed by defendant to plaintiffs is \$6,767.97.

Accordingly

**IT IS HEREBY ORDERED** that Plaintiffs' Motion for Default Judgment [#7] is **GRANTED**.

A separate Judgment will be entered with this Memorandum and Order.

Dated this 16th day of March, 2006.

  
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RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE